

## **BROKEN ARROW CITY COUNCIL MINUTES**

**AUGUST 2, 2004**

The Broken Arrow City Council met in regular session in the City Hall Conference Room on Monday, August 2, 2004, at 7:00 p.m.

1. Mayor Richard Carter called the meeting to order at 7:00 p.m.
2. Mr. Shane Hickey provided the invocation.
3. Mayor Carter called for roll call:

Present: Mayor Richard Carter  
Vice-Mayor Craig Thurmond  
Councilwoman Melissa Mahan  
Councilman Wade McCaleb  
Councilman Tom Chatterton

Staff Present: James Twombly, City Manager  
Gary Blackford, Assistant to the City Manager  
Melanie Bolduc, City Clerk  
Michael Vanderburg, City Attorney  
Farhad Daroga, City Planner  
Jay Heinrichs, Controller  
Todd Wuestewald, Police Chief  
Tom Caldwell, Finance Director  
Dave Wooden, Public Works Director  
Allen Stanton, Chief Building Inspector  
Tom Hendrix, Acting City Engineer  
Greg Neely, Acting Fire Chief  
Scott Esmond, Parks Director  
Russell Gale, Human Resource Director

4. Councilman McCaleb led those present in the pledge of allegiance to the flag.
- 5A. Council considered approval of the regular meeting minutes of July 19, 2004.

Motion by Chatterton, second by McCaleb, to approve the meeting minutes of July 19, 2004.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

6. Public Hearings, Appeals, Presentations, Recognitions, and Awards

- 6A. Council considered APPEAL - Eagle Ridge Villages, for waiver of sidewalks on Elm Place, 10.0 acres, PUD 140 & R-3 (BAZ 1611), east side of Elm Place, ¼ mile north of Albany (ST04-124, DN03-179, and PT03-123).

Mr. Farhad Daroga, City Planner, provided background information and an outline development plan (concept plan) was shown on the overview projector. Daroga explained the plans for the subject sidewalk. In response to member inquiry, Daroga commented that the interior sidewalk was waived, which is secondary to the main sidewalk along Elm Place.

Mr. Mark Kinny, Breisch & Associates, Inc. introduced Mr. Tom Freeman of Baptist Retirement Centers of Oklahoma, which expressed his concerns of having a sidewalk along their development. Freeman commented that gates would be necessary from their property to access the sidewalk.

Mayor Carter explained that he did not believe it would be necessary to have gates to the sidewalk. Thurmond commented that it is not typical to waive sidewalks, as they are required and necessary for public access; also that the sidewalk funds may be placed in an Escrow fund until the street widening, at which time the sidewalks would be placed.

Motion by McCaleb, second by Thurmond, to deny the appeal to waive the sidewalks and to allow the developer to Escrow the cost of the sidewalks to be built as the road is widened.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

- 6B. Council considered APPEAL - PUD 118B, (BAZ 1562), Aspen Park Village, for a major amendment determination for modification of access points, 54.06 acres, east of Aspen Avenue, north of the MKT Railroad, Aspen Village.

Daroga provided background information concerning curb cuts and commented that Staff recommends that the applicants request be considered a Major Amendment, rather than a Minor Amendment.

Mr. Bob Holmes, independent design consultant from Arkansas for Haskell Land Development recapped on the appeal request.

In response to Council inquiries, Daroga explained that if substantial changes are to be made in the PUD there would be a Major Amendment. City Attorney Michael Vanderburg explained the City's Ordinance pertaining to the differentials in the criteria between Major and Minor Amendments; and that the Planning Commission would have the authority to designate whether or not it meets the criteria of a Major or Minor Amendment.

Motion by McCaleb, second by Thurmond, designate as a Major Amendment and deny the appeal.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

- 6C. Council considered APPEAL - BAZ 1646, Mullins Plumbing, 1.63 acres, R-1 to C-5, 1/3 mile north of Houston (81<sup>st</sup> Street), south of the railroad tracks, on the west side of Elm Place.

Mayor announced that two individuals had signed up to speak and Daroga provided background information.

Markwayne Mullin, applicant for Mullin Plumbing, recapped on the appeal request with discussions of easements, building setbacks and that the office space would be separate from the proposed "barn" structure.

Council Members, Applicant and Staff discussed that the zoning is subject to the property being platted and its importance for stormwater drainage and fire protection. Vanderburg provided clarification of the differences between private or public easements and explained that a notice may be placed in the Public Land Records that would indicate the need for platting prior to future developments.

McCaleb inquired of applicant as to whether or not the project is time critical to allow it to be tabled until the next meeting.

Motion by Chatterton, second by Mahan, to table until the next meeting to allow more time to resolve details.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

Mayor commented that two individuals had signed up to speak on this item and had been inadvertently missed; if they chose to speak they would be allowed to do so at that time.

Ms. Becky Grimes, 711 W. Commercial Street, commented on the current drainage problems and that she is concerned about the condition worsening. She also expressed her desire for the property owner to install a fence to enclose the debris on the property.

Bob Mc Hone, 720 W. Commercial Street, commented that there are drainage problems with water runoff because his yard is several inches lower than the applicant's property. He expressed his concern regarding his fence since the applicant has built a storage bin up against his chain link.

Mayor explained to Ms. Grimes and Mr. McHone that the item is to be tabled to the next meeting and they may attend again at that time.

- 6D. Council considered public hearing for Local Law Enforcement Block Grant, authorization for required cash match and designation of expenditures.

Assistant Police Chief Rick Ross provided background information concerning the grant and the 10% match requirement. He explained the grant would assist with various City provisions which would benefit the community and he recognized Tavia Dooley, City's grant writer.

Council thanked Tavia Dooley for her hard work and expressed their appreciation.

Motion by Chatterton, second by Mahan, to approve the 10% grant match.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

- 6E. Council considered public hearing to abate general public nuisances Revised List:

TRASH

1. 4705 S Butternut Ave Lt 20 Blk 5 Stacey Lynn 5<sup>th</sup>

WEEDS

- |     |                           |  |
|-----|---------------------------|--|
| 1.  | 1721 S 4 <sup>th</sup> St | Lt 23 Blk 9 Oak Crest 3 <sup>rd</sup> Addn   |
| 2.  | 821 W Austin St           | Lt 2 Blk 6 Leisure Park                      |
| 3.  | 418 W Ft Worth St         | E ½ Lt 8 & all Lt 9, 10 Blk 9 Homestead      |
| 4.  | 4016 S Cedar Ave          | Lt 11 Blk 1 Hidden Springs                   |
| 5.  | 201 N Fir Ave             | Lt 15 Blk 11 Country Aire Est                |
| 6.  | 1812 W Fulton St          | Lt 10 Blk 4 Stacey Lynn 6 <sup>th</sup> Addn |
| 7.  | 515 W Elgin St            | Lts 7, 8 & 9 Blk 23 Original Town            |
| 8.  | 1316 N Umbrella Ave       | Lt 24 Blk 3 Union Station                    |
| 9.  | 2601 W Detroit St         | Lt 4 Blk 11 Country Aire Estates             |
| 10. | 3000 W Dallas St          | Lt 9 Blk 5 Country Aire Est IV               |

Mr. Earl Teske, 10323 S 200<sup>th</sup> E Ave, provided a letter to Council and commented that there are several locations listed in the letter that he considers public nuisances for abatement, for which he requested enforcement.

Trash Item 1 was removed, as prior arrangements had been made.

Motion by McCaleb, second by Mahan, to approve abatement of the remaining location(s) on the revised list as submitted.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

7. Citizen's Opportunity to Address the Council; No one was signed up to speak.
8. Council considered the Consent Agenda.
- A. Approval of payroll calendar for balance of Fiscal Year 2004-2005, beginning with the payroll of August 13, 2004.
  - B. Approval of and authorization for the Mayor to execute Budget Amendment #1 for Fiscal Year 2005.
  - C. Approval of PUD 44D, 13.88 acres, west of Juniper Avenue, between Southwest Expressway Drive and West Tacoma Street in the Greenway Business Park.
  - D. Approval of bid received for replacement of the roof at the north end of City Hall, and authorization for the Mayor to execute a contract with Action Roofing to perform the work.
  - E. Approval of proposed concrete median installation at the intersection of Garnett and Washington.
  - F. Approval of and authorization for the Mayor to execute an Amendment to the Declaration of Trust of the Broken Arrow Public Golf Authority, amending the term of office of the Trustees from six (6) years to four (4) years.

- G. Acceptance of a Utility Easement from Forum Properties, L.L.C. and from the Arkansas-Oklahoma Synod (S36 T19 R14E) (Project: Fairway Crossing).
- H. Acceptance of Temporary Access Easement, Temporary Detention Easement, and Temporary Turnaround Right-of-Way Easement from Select Property Development, L.L.C. (S4 T18N R14E) (Project: Bricktown West).
- I. Approval of Claims List.

Motion by Mahan, second by McCaleb, to approve Consent Agenda Items A-G & I.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
 Nay: None  
 Motion Carried

- 9. Item H was removed from the Consent Agenda.

Thurmond left the Council Chambers at the noted time of 8:25 p.m.

Motion by McCaleb, second by Chatterton, to approve Consent Agenda Item H.

Aye: Mahan, Chatterton, McCaleb, Carter  
 Nay: None  
 Motion Carried

Thurmond returned to the Council Chambers at the noted time of 8:26 p.m.

- 10. Council considered General Council Business.

- 10A. Consideration of establishment of a City “Fireworks Committee”, including defining the Committee’s purpose and composition, and possible nominations to fill positions on the Committee.

Assistant Police Chief Rick Ross commented on the proposed committee and that a list of citizens had been provided for Council’s consideration. Acting Fire Chief Greg Neely commented on the committee functions and Staff suggested input from citizens.

Motion by Chatterton, second by Mahan, to establish the City’s “Fireworks Committee” and approve the composition of the committee as consisting of twelve members, comprised of seven City staff, including two representatives each from the Police and Fire departments, one each from the departments of Legal, Parks, Inspections, and five residents, one nominated from each Council member.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
 Nay: None  
 Motion Carried

The following nominations were made: Linda Ebert by Mayor Carter, Rob Whitlock by McCaleb, and Denise Kirby by Chatterton.

Mahan and Thurmond to provide to the City Manager’s office at a later date the names for their nominees.

Council explained that the Committee is to report back to Council with its recommendations 60 days from the date the nominees are appointed.

City Manager James Twombly requested that Item 10B be discussed following Executive Session.

- 10B. Consideration of and authorization for the Mayor to execute a “Memorandum of Understanding Regarding the Dedication of Right-of-Way and Temporary Construction Easements, Drainage Structures and Relocation of the Conoco Phillips Pipeline in Section 35, Township 19 North, Range 14 East, between the City of Broken Arrow and Mr. John A. Davis, Mr. E. A. Schermerhorn, and Mr. Jack Wright” for the Albany and 9<sup>th</sup> Street widening projects, Conoco pipeline relocation and drainage improvements.

Action on Item 10B noted after Executive Session.

- 10C. Consideration of CZ-346, Tulsa County Referral Rezoning Request by Joe Blevins, AG to RS, 8 acres, north side of Jasper Street/131<sup>st</sup>, ½ mile west of 23<sup>rd</sup> Street/County Line Road/193<sup>rd</sup> East Avenue.

Daroga provided background information and had shown a map on the overview projector. Council and Staff discussed the sketch map, lot sizes, cul-de-sac, water, sewer, soil percolation, aerobic and septic systems, DEQ requirements, and Health Codes. Daroga commented that the Planning Commission had suggested that INCOG and County staff be involved in the subdivision design for the particular layout.

David Embry, applicant, commented that plats and sketch map had been submitted to Tulsa County and explained the lot sizes and plans to use an aerobic system.

Motion by Thurmond, second by Chatterton, to approve CZ-346, change in zoning from R2 to R2S, subject to all Tulsa County conditions and allow Broken Arrow water.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

11A. Oral progress report concerning the Cambridge Estates issues.

Twombly provided an oral progress report and explained that a meeting had been conducted on the Staff level, which included individuals from the departments of Public Works, Inspections, Legal, Engineering, and Planning. The focus was primarily on the Code Enforcement portions, such as the tall weeds and grass, and drainage from the issues during the past spring rains. He explained that the drainage solutions would rely on engineering work with the streets design and drainage. Council confirmed his inquiry as to Council's view of priorities and responded to begin with the weeds and debris issues, and discussed the cleanup of the lots which may rectify the water flow from being misdirected. No Action was taken.

12. Council Considered Preview Ordinances:

12A. An ordinance amending the Broken Arrow Code by adding Section 12-12, prohibiting the unauthorized removal of solid waste materials that have been placed for pickup on the yard or curbside of any property; repealing all ordinances to the contrary; and declaring an emergency.

12B. An ordinance amending the Broken Arrow Code by creating Section 6-9 creating a Down Town Redevelopment District and related review process on all application for a Building Permit, Earth Change Permit, or other permit from the city that involves construction or demolition or removal of any structure within the District, repealing all ordinances to the contrary and declaring an emergency.

Vanderburg provided background information. Council and Staff discussed the potential of identity theft and have wording to include commercial dumpsters.

Motion by Thurmond, second by Mahan, to approve Preview Ordinance Items 12A & B" to move forward to next meeting for possible adoption.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

13. Council considered proposed Ordinances.

13A. Ordinance No. 2646 - An ordinance annexing certain contiguous tracts of land known as the Southwest quarter (SW/4) and the South half (S/2) of the Northwest quarter (NW/4) of Section 30, including Eagle Creek, Eagle Creek II, Eagle Creek III, Eagle Creek IV, Eagle Creek V, and Eagle Creek VI, all subdivisions in Section 30, Township 19 North, Range 15 East of the Indian Base and Meridian, Wagoner County, Oklahoma, to the city limits of the City of Broken Arrow, Oklahoma, granting a zoning classification, and adopting a service plan, providing for the exclusion of Eagle Creek VII at this time, and declaring an emergency.

13B. Ordinance No. 2647 - An ordinance closing a utility easement, located in part of Tiger Plaza an addition to the City of Broken Arrow, Tulsa County, Oklahoma, according to the recorded plat thereof, providing for reservation of rights within the closed easements, and declaring an emergency.

13C. Ordinance No. 2648 - An ordinance amending the Broken Arrow Code Section 24-608 b), increasing the increment rates for water effective for all billings and consumption after August 2, 2004; repealing all ordinances to the contrary and declaring an emergency.

Vanderburg provided background information and explained that all ordinances were as previewed with the exception of the changes to exclude Eagle Creek area as requested to Ordinance No. 2646.

Motion by McCaleb, second by Chatterton, to approve Ordinance No.'s 2646, 2647 and 2648.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

Motion by McCaleb, second by Chatterton, to adopt the emergency clauses for Ordinance No.'s 2646, 2647 and 2648.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

14. Remarks and inquiries by Governing Body Members; Mahan shared that there was to be a Father/Daughter Summit held in Tulsa on August 14, which would be offered to City Employees at a reduced rate. She encouraged those present to inform other Staff members of the opportunity. Mayor commented that Mrs. Hash (Grandma Hash) had brought some wonderfully tasteful items on behalf of young Roy Hash, which was present in the audience. The City had addressed some insurance coverage issues pertaining to non-conventional medical treatments for Cancer, which resulted in Roy obtaining the much needed treatment and he is doing very well.

Motion by Chatterton, second by McCaleb, to recess for the Broken Arrow Municipal Authority meeting before returning for Executive Session.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

Mayor Carter announced a break in the City Council meeting at the noted time of 8:57 p.m. Mayor Carter reconvened the regular session of the City Council meeting at the noted time of 9:00 p.m.

Motion by McCaleb, second by Chatterton, to recess prior to returning for Executive Session.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

Mayor Carter announced a recess at the noted time of 9:01 p.m.

Mayor Carter reconvened the meeting at the noted time of 9:16 p.m.

Council Present: Mahan, Chatterton, McCaleb, Thurmond, Carter.

Staff Present: James Twombly, Michael Vanderburg (10:05 p.m. left; 11:00 pm. Returned), Dave Wooden (9:35 p.m. left), Stephen Steward (9:20 p.m. left; 9:35 p.m. returned; 9:36 p.m. left).

Motion by McCaleb, second by Chatterton, to enter into Executive Session.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

15. Executive Session for the purpose of confidential communications between the City Council, the City Manager, and the City Attorney for purposes of conferring on matters pertaining to potential economic development and marketing, under Title 25 O.S. § 307(C)(10); to discuss the purchase or appraisal of real property, including land at Albany and Ninth, land for the Convention Center, and land for Bass Pro, all under 25 O.S. ¶ 307B3; and confidential communications between the City Council and its attorney concerning pending claims and possible settlement or appeal of Curry v BA and the pending claim and action of Parnell v BA, all under 25 O.S. § 307B4; and to discuss the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or

employee under 25 O.S. § 307B1. This specifically includes confidential communications between a public body and its attorney concerning a pending investigation. The City Attorney advises that disclosure will seriously impair the ability of the Council to process the pending investigation in the public interest. After the conclusion of the confidential portion of meeting, the Council will reconvene in open meeting, and the final decision, if any, will be put to a vote.

Mayor Carter reconvened the regular session of the City Council at the noted time of 11:01 p.m.

Motion by Thurmond, second by Mahan, to approve Item 10B; authorization for the Mayor to execute a “Memorandum of Understanding Regarding the Dedication of Right-of-Way and Temporary Construction Easements, Drainage Structures and Relocation of the Conoco Phillips Pipeline in Section 35, Township 19 North, Range 14 East, between the City of Broken Arrow and Mr. John A. Davis, Mr. E. A. Schermerhorn, and Mr. Jack Wright” for the Albany and 9<sup>th</sup> Street widening projects, Conoco pipeline relocation and drainage improvements.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

Motion by Thurmond, second by Chatterton, to proceed with Curry vs Broken Arrow as discussed.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

15. Council considered adjournment.

Motion by Mahan, second by Chatterton, to adjourn.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter  
Nay: None  
Motion Carried

The meeting adjourned at the noted time of 11:03 p.m.

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Mayor

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City Clerk